IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2030 OF 2005

Parshuram Narayan Khamkar & Ors. ..Petitioners.

Versus

Shobha Suryaji Rane & Anr.. ..Respondents.

Mr. G. Bhat for the Petitioners.

Mr. D.J.Deshmukh for the Respondent No.1.

CORAM : S. A. BOBDE, J.

DATED : 01st SEPTEMBER,2005.

P.C.:

1. The petitioners are in possession of certain structures on the property in question, which was declared as Slum in the year 1976.

2. In a suit filed by the respondents' landlord the petitioners have filed a written statement, contending that the area is declared as a slum. The respondents were, therefore, obviously aware of the petitioners' stand. However, in an appeal filed by the respondents' landlord challenged a notification

bearing No. SLM/1075/5380/G - Yadav Nagar dated 19.02.1976 published in M.G.G. dated 19.02.1976, declaring the suit property as a slum. The Tribunal constituted under the Slums Act has set aside the declaration as slum. That order in Appeal, setting aside the declaration is challenged before this court. The only contention raised on behalf of the petitioners is that the appeal setting aside the declaration that it is slum, was allowed without complying with sub-section (4) of section 4 of the Act, which reads as follows :-

> "(4)...When an appeal is presented under sub-section (3), the Tribunal shall, by a public notice published in a newspaper in the Marathi language circulating in the local area in which the slum area is situated and also displayed at some conspicuous place in the slum area, call upon the residents of the slum area to file their objection, if any, to the appeal within a period of fifteen days from the date of publication of such public notice in the news paper as aforesaid, either by themselves or through any association of residents in the slum area of which they are

members."

3. There is no dispute on behalf of the respondents that the sub-section (4) of section 4 has not been complied with.

4. In this view of the matter, the appellate order is set aside. The appeal shall be decided after complying with sub-section (4) of section 4 and giving an opportunity to the petitioners to raise the issue of limitation, as may be advised in accordance with law.

5. Petition is disposed of in the above terms.

DT.01.09.05 (S.A.BOBDE,J)

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